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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,724	10/30/2001	Trent W. Davis	930007-2001	4458
20999	7590	04/08/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			BASINGER, SHERMAN D	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/016,724	Applicant(s) DAVIS ET AL.	
	Examiner Sherman D. Basinger	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-14 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1 and 4-14 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 21 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> .           |

Continuation of Attachment(s) 6). Other: marked up copy of figure 7 of patent 2,613,169.

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

2. Applicant in response to the above requirement argues that the declaration filed February 19, 2002 identified the mailing address of each applicant. However, the declaration filed February 19, 2002 clearly identifies only the residence and citizenship of each inventor. In the beginning of the declaration it is stated that the residence, post office and citizenship is stated below next to each inventor's name. However, only the residence and citizenship is stated next to each inventor's name. The objection to the declaration stands.

### ***Specification***

3. In line 3 of the replacement paragraphs filed March 21, 2004 for the paragraphs starting on page 6, line 15 and ending on page 7, line 19, the patent number -6,860,218- is incorrectly given as "6,860,216".

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4-6, 9, 11 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Cunningham.

The clamping mechanism is made up of 54 and 56. The ring portion is 54. The ring receiving surface is 56. The ring portion 54 has an enlarged radially extending member which is curved and extends outward as is shown on the marked up copy of figure 7 of Cunningham attached to this office action. The complementary curved surface of the ring receiving surface is also pointed out in the marked up drawings. The axially located hub is 55. The axially located member of the ring receiving surface is the aperture of surface 56. The load bearing device are the threads of the aperture of surface 56. The threads of surface 56 are adjustable along the hub to adjust the amount of clamping force. The means to couple a tow cable is 18.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7, 8, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham in view of Doerpinghaus.

The ring portion 54 and the ring receiving surface 57 of Cunningham do not include openings which allow egress and ingress of fluid to and from the interior of the tubular structure. Note 38 of the ring portion 33 of Doerpinghaus. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide to 55 of Cunningham a opening similar to 38 of Doerpinghaus, such opening allowing egress and ingress of fluid to and from the interior of the tubular structure and providing an opening in the ring portion and ring surface to do so. Motivation to do so is to replace 16 of Cunningham with such an opening. This would make the container cheaper to make.

The means for closing off flow of fluid to and from the tubular structure of claim 8 would be similar to 36 of Doerpinghaus. With regard to claim 10, the means for coupling a tow cable thereto would be similar to 37 of Doerpinghaus.

#### ***Response to Arguments***

8. Applicant's arguments filed March 21, 2005 have been fully considered but they are not persuasive.

Applicant's arguments urge that claim 1 is allowable because applicant amended claim 1 to define: clamping mechanism for closing said opening, said mechanism having a receiving portion in which said end is inserted between a ring portion having an

enlarged radially extending member which is curved and extends outward and a ring receiving surface and thereafter a clamping force is placed thereon clamping said end between said ring portion and said ring receiving surface thereby affixing said mechanism to said end.

These arguments are not persuasive because a ring portion having an enlarged radially extending member which is curved and extends outward and a ring receiving surface does not define in sufficient detail how the enlarged radially extending member is curved. Ring portion 54 of Cunningham has structure which can be considered to be an enlarged radially extending member and has several areas of this radially extending member which are curved. Attached to this action is a marked up copy of figure 7 of Cunningham which points out structure which meets the above limitation.

The rejections stand.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:30 p.m.,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617  
4/6/05

Tuesday, April 05, 2005



Attachment to office

Action of 20050405

Oct. 7, 1952

M. M. CUNNINGHAM

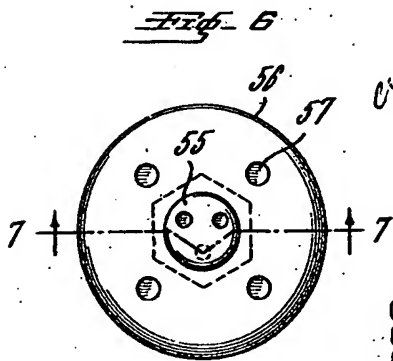
2,613,169

METHOD OF MAKING COLLAPSIBLE CONTAINERS

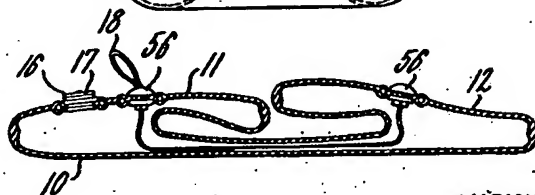
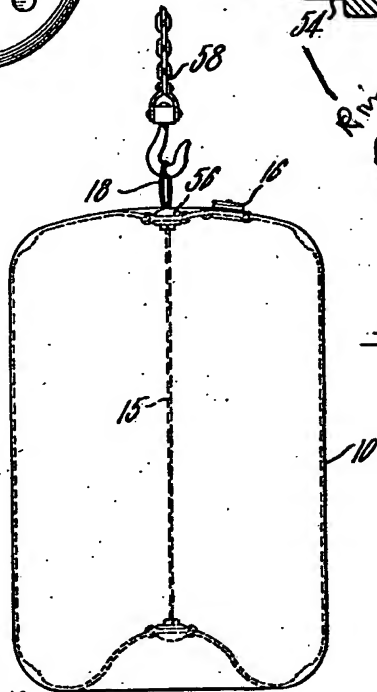
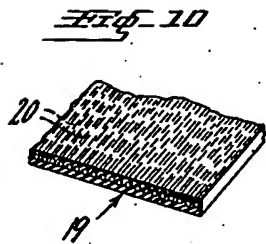
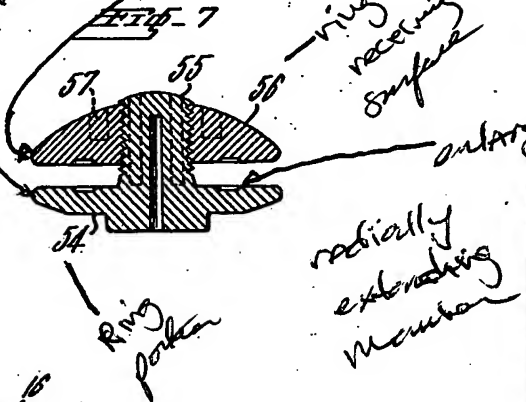
Filed Feb. 16, 1950.

5 Sheets-Sheet 2

complementary  
curved  
surface



curve of enlarged radially extending member



INVENTOR.  
MARION M. CUNNINGHAM  
BY  
Charles C. Willson  
ATTORNEY